SINGLE BENCH (1)

C.D.100/

(4)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR

(CHHATTISGARH)

WRIT PETITION NO.3704/2006.

PETITIONER: M/s Kanker Roadways (registered partnership firm) Through Managing partner Preetam Singh Garcha, S/o Late Jogindar Singh Garcha, aged about 59 years, residence of Civil Line, Raipur, Chhattisgarh.

P.R. No. 3780/06
Presented by Amit Sharma
dated 20/12/06

VERSUS

Respondents:

1. State Transport Appellate Tribunal, State of Chhattisgarh, Raipur
2. Regional Transport Authority, Chhattisgarh, Raipur.
3. Secretary, R.T.A., Jagdalpur, Chhattisgarh.
4. Payal Travels, through Managing Partner, Swaroop Chand Jain, residence of In front of District Court, Durg, Chhattisgarh.
5. Manish Travels, Proprietor Manish Jain, residence of In front of District Court, Durg, Chhattisgarh.

OATH COMMISSIONER APARNA MALVIYA CG-2078/96 20/12/06 Bilaspur Chhattisgarh

RECEIVED-COPY 20/12/06
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WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA.

69

HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, CJ.

Writ Petition No. 3704 OF 2006

PETITIONER	:	M/s Kanker Roadways (registered partnership firm) Through Managing partner Preetam Singh Garcha, S/o Late Jogindar Singh Garcha, aged about 59 years, residence of Civil Line, Raipur, Chhattisgarh.
	Vs.	
RESPONDENTS	1.	State Transport Appellate Tribunal, State of Chhattisgarh, Raipur.
	2.	Regional Transport Authority, Chhattisgarh, Raipur.
	3.	Secretary, R.T.A., Gagdalpur, Chhattisgarh.
	4.	Payal Travels, through Managing Partner, Swaroop Chand Jain, residence of In front of District Court, Durg, Chhattisgarh.
	5.	Manish Travels, Proprietor Manish Jain, residence of In front of District court, Durg, Chhattisgarh.

Present : Shri B.K. Rawat, learned counsel for the petitioner.
Shri Yashwant Singh, learned G.A. for respondents 1 to 3.
Shri Ajay Shrivastava, learned counsel for respondents 4 and 5.

ORAL ORDER
(Passed on 26th July 2006)

The petitioner was granted stage carriage permit No. 56/2003 by the Regional Transport Authority, Raipur, the 2nd respondent herein, vide order dated 11-05-2004 on the route Raipur to Bailadila. The respondent

Nos. 4 and 5 preferred a Revision No. 386/2004 under Section 90 of the Motor Vehicles Act to the State Transport Appellate Tribunal (S.T.A.T.). The S.T.A.T. by its order dated 14-07-2006 cancelled the permit granted to the petitioner. The petitioner feeling aggrieved by the above order of the S.T.A.T. has preferred this writ petition.

2. I have heard the learned counsel for the parties, perused the pleadings of the parties and the grounds raised in their respective pleadings. I am of the opinion that on a short ground, cancellation of the permit granted in favour of the petitioner by the S.T.A.T. could not be faulted with and therefore, there is no need for the Court to deal with all the grounds urged in the writ petition. Suffice it to state that after the formation of the new State of Chhattisgarh, the subject route was formulated under Section 68(3) (ca) of the Motor Vehicle Act 1988 only on 14-06-2004, whereas, admittedly, the permit was granted with regard to the said route to the petitioner on 11-05-2004. On that ground itself, the permit granted in favour of the petitioner without their being formulation of the route could not be sustained. Although it was contended by learned counsel for the petitioner that the formulation of the route vide notification dated 14-06-2004 was not necessary in view of the fact that the said route was formulated under Section 47(3) of the Repealed Act of 1939, that question need not be gone into in the present proceeding, because, the petitioner has not assailed the formulation of the said route under Section 68(3) (ca) of 1988 Act. The petitioner cannot be permitted to assail the correctness of the notification dated 14-06-2004, which is a statutory instrument, indirectly and without challenging the validity of the same. In

conclusion, there is no ground to interfere with the order made by the S.T.A.T. The writ petition is, therefore, dismissed. No costs.

Sd/-
Chief Justice